

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition to  
Revoke Probation Against:**

**Chi Manh Pham, M.D.**

**Case No. 800-2017-039155**

**Physician's and Surgeon's  
Certificate No. C 40215**

**Respondent**

**DECISION**

**The attached Stipulated Surrender of License and Order is hereby  
adopted as the Decision and Order of the Medical Board of California,  
Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on September 13, 2018.**

**IT IS SO ORDERED September 6, 2018.**

**MEDICAL BOARD OF CALIFORNIA**

**By:**

  
\_\_\_\_\_  
**KIMBERLY KIRCHMEYER  
EXECUTIVE DIRECTOR**

1 XAVIER BECERRA  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 BENETH A. BROWNE  
Deputy Attorney General  
4 State Bar No. 202679  
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7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11  
12 In the Matter of the Petition to Revoke  
Probation Against:

13 **CHI MANH PHAM, M.D.**  
14 **12303 Westheimer Suite B**  
**Houston, TX 77077**

15 **Physician's and Surgeon's Certificate No.**  
16 **C 40215,**

17 Respondent.

Case No. 800-2017-039155

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
23 of California (Board). She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, by Beneth A. Browne,  
25 Deputy Attorney General.

26 2. Chi Manh Pham, M.D. (Respondent) is representing himself in this proceeding and  
27 has chosen not to exercise his right to be represented by counsel.

28 3. On or about February 1, 1982, the Board issued Physician's and Surgeon's Certificate

1 No. C 40215 to Respondent. The Physician's and Surgeon's Certificate was in full force and  
2 effect at all times relevant to the charges brought in Petition to Revoke Probation No. 800-2017-  
3 039155 and expired on May 31, 2015.

#### 4 JURISDICTION

5 4. Petition to Revoke Probation No. 800-2017-039155 was filed before the (Board) and  
6 is currently pending against Respondent. The Petition to Revoke Probation and all other  
7 statutorily required documents were properly served on Respondent on June 26, 2018.  
8 Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation. A  
9 copy of Petition to Revoke Probation No. 800-2017-039155 is attached as Exhibit A and  
10 incorporated by reference.

#### 11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in Petition  
13 to Revoke Probation No. 800-2017-039155. Respondent also has carefully read, and understands  
14 the effects of this Stipulated Surrender of License and Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Petition to Revoke Probation; the right to be  
17 represented by counsel, at his own expense; the right to confront and cross-examine the witnesses  
18 against him; the right to present evidence and to testify on his own behalf; the right to the  
19 issuance of subpoenas to compel the attendance of witnesses and the production of documents;  
20 the right to reconsideration and court review of an adverse decision; and all other rights accorded  
21 by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

#### 24 CULPABILITY

25 8. Respondent understands that the charges and allegations in Petition to Revoke  
26 Probation No. 800-2017-039155, if proven at a hearing, constitute cause for imposing discipline  
27 upon his Physician's and Surgeon's Certificate.

28 9. For the purpose of resolving the Petition to Revoke Probation without the expense

1 and uncertainty of further proceedings, Respondent does not contest that, at an administrative  
2 hearing, Complainant could establish a *prima facie* case with respect to the charges and  
3 allegations contained in Accusation No. 800-2017-039155 and that he has thereby subjected his  
4 license to disciplinary action. Respondent hereby gives up his right to contest that cause for  
5 discipline exists based on those charges.

6 10. Respondent agrees that if he ever petitions for reinstatement of his Physician's and  
7 Surgeon's Certificate No. C 40215, all of the charges and allegations contained in Accusation No.  
8 800-2017-039155 shall be deemed true, correct and fully admitted by Respondent for purposes of  
9 that reinstatement proceeding or any other licensing proceeding involving Respondent in the State  
10 of California.

11 11. Respondent understands that by signing this stipulation he enables the Board to issue  
12 an order accepting the surrender of his Physician's and Surgeon's Certificate without further  
13 process.

#### 14 CONTINGENCY

15 12. This stipulation shall be subject to approval by the Board. Respondent understands  
16 and agrees that counsel for Complainant and the staff of the Board may communicate directly  
17 with the Board regarding this stipulation and surrender, without notice to or participation by  
18 Respondent. By signing the stipulation, Respondent understands and agrees that he may not  
19 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers  
20 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the  
21 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
22 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
23 be disqualified from further action by having considered this matter.

24 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
25 copies of this Stipulated Surrender of License and Order, including Portable Document Format  
26 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

27 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
28 the Board may, without further notice or formal proceeding, issue and enter the following Order:

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1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.


5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Petition to Revoke Probation, No. 800-2017-039155 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into

4

1 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and  
2 agree to be bound by the Decision and Order of the Medical Board of California.

3  
4 DATED: 8-08-2018

  
5 CHI MANH PHAM, M.D.  
6 Respondent

7 ENDORSEMENT

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10 Dated: August 22, 2018

Respectfully submitted,

11 XAVIER BECERRA  
12 Attorney General of California  
13 E. A. JONES III  
14 Supervising Deputy Attorney General



15 BENETH A. BROWNE  
16 Deputy Attorney General  
17 Attorneys for Complainant

18 LA2018500309  
19 53021407

**Exhibit A**

**Petition to Revoke Probation No. 800-2017-039155**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO June 26 2018  
BY R. Fitzwater ANALYST

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BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

Case No. 800-2017-039155

**CHI MANH PHAM, M.D.**  
12303 Westheimer Suite B  
Houston, TX 77077

PETITION TO REVOKE PROBATION

Physician's and Surgeon's Certificate No. C  
40215,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about February 1, 1982, the Medical Board of California issued Physician's and Surgeon's Certificate Number C 40215 to Chi Manh Pham, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on May 31, 2015.

3. On or about October 13, 2015, in a disciplinary action entitled "In the Matter of Accusation Against Chi Manh Pham, M.D.," Case No. 800-2014-006694, the Medical Board of



1 California, issued a decision, effective November 12, 2015, in which Respondent's Physician's  
2 and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's  
3 Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with  
4 certain terms and conditions. A copy of that decision (Probation Order) is attached as Exhibit A  
5 and is incorporated by reference.

#### 6 JURISDICTION

7 4. This Petition to Revoke Probation is brought before the Medical Board of California  
8 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
9 references are to the Business and Professions Code unless otherwise indicated.

10 5. Section 2227 of the Code provides that a licensee who is found guilty under the  
11 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
12 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
13 action taken in relation to discipline as the Board deems proper.

14 6. Section 2234 of the Code states:

15 "The board shall take action against any licensee who is charged with unprofessional  
16 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
17 limited to, the following:

18 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
19 violation of, or conspiring to violate any provision of this chapter.

20 "..."

21 7. Section 118, subdivision (b), of the Code provides that the expiration of a license  
22 shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action  
23 during the period within which the license may be renewed, restored, reissued or reinstated.

#### 24 FIRST CAUSE TO REVOKE PROBATION

##### 25 (License Renewal)

26 8. At all times after the effective date of Respondent's probation, Condition 12 of the  
27 Probation Order provided that failing to fully comply with any term or condition of probation is a  
28 violation of probation and that if Respondent violates probation, after providing Respondent

1 notice and an opportunity to be heard, the board may revoke probation and carry out the  
2 disciplinary order that was stayed. Likewise, Condition 8 of the Probation Order required  
3 Respondent to maintain a current and renewed California physician's and surgeon's license.

4 9. Respondent's probation became subject to revocation pursuant to Probation  
5 Condition 12 because he violated probation by failing to comply with Probation Condition 8. The  
6 facts and circumstances regarding this violation are as follows:

7 A. On or about May 31, 2015, during the probation period, Respondent's Physician's  
8 and Surgeon's Certificate Number C 40215 expired and became delinquent. Since that time,  
9 Respondent has failed to take appropriate steps to renew his California physician's and surgeon's  
10 license and it remains expired and delinquent.

#### 11 SECOND CAUSE TO REVOKE PROBATION

##### 12 (Non-practice Exceeding Two Years)

13 10. At all times after the effective date of Respondent's probation, Condition 10 stated  
14 that periods of non-practice shall not exceed two (2) years during the probation period.<sup>1</sup>

15 11. Respondent's probation became subject to revocation pursuant to Probation  
16 Condition 12, referenced above, because he violated probation by failing to comply with  
17 Probation Condition 10. The facts and circumstances regarding this violation are as follows:

18 A. During the entire length of his probation, over two and a half years to date,  
19 Respondent has not practiced medicine in California. Nor has Respondent participated in a  
20 board-approved intensive training program or, to the board's knowledge, practiced medicine in  
21 another state while on probation with that state's medical licensing authority at any time since the  
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23  
24 <sup>1</sup> Additionally, Condition 10 requires Respondent to notify the board in writing within 15  
25 calendar days of any period of non-practice lasting over 30 calendar days and within 15 days of  
26 his return to practice. Non-practice is defined as "any period of time respondent is not practicing  
27 medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at  
28 least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other  
activity as approved by the board." Condition 10 provides that non-practice does not include any  
time spent in a board-approved intensive training program. Nor does it include time spent  
practicing medicine in another state or federal jurisdiction while on probation with the medical  
licensing authority of the jurisdiction. Finally, non-practice does not include any period of time  
probationer's license is suspended by the board. (Exhibit A, page 8.)

1 Probation Order became effective. Finally, Respondent's license has not been subject to  
2 suspension.

3 B. Respondent failed to provide the board timely notice of his period of non-practice  
4 extending over 30 calendar days.

5 DISCIPLINE CONSIDERATIONS

6 12. To determine the degree of discipline, if any, to be imposed on Respondent,  
7 Complainant alleges that on or about October 13, 2015, in a prior disciplinary action entitled "In  
8 the Matter of the Accusation Against Chi Manh Pham, M.D." before the Medical Board of  
9 California, in Case No. 800-2014-006694, Respondent's license was placed on probation for five  
10 years with terms and conditions including an education course, medical record keeping course  
11 and a practice monitor. (Exhibit A.) The basis for the discipline included having received  
12 discipline in the State of Texas based on findings that Respondent failed to maintain adequate  
13 medical records with respect to five patients, with said medical records lacking documentation of  
14 the medical decision-making process and the patients' outcomes.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Medical Board of California issue a decision:

18 1. Revoking the probation that was granted by the Medical Board of California in Case  
19 No. 800-2014-006694 and imposing the disciplinary order that was stayed thereby revoking  
20 Physician's and Surgeon's Certificate No. C 40215 issued to Respondent;

21 2. Revoking or suspending Physician's and Surgeon's Certificate No. C 40215, issued to  
22 Respondent;

23 3. Revoking, suspending or denying approval of Respondent's authority to supervise  
24 physician assistants and advanced practice nurses;

25 4. Ordering Respondent, if placed on probation, to pay the Medical Board of California  
26 the costs of probation monitoring; and


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5. Taking such other and further action as deemed necessary and proper.

DATED: June 26, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

LA2018500309  
52925534.docx

## **Exhibit A**

### **Decision and Order**

**Medical Board of California Case No. 800-2014-006694**

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**Chi Manh Pham, M.D.**

**Case No. 800-2014-006694**

**Physician's and Surgeon's  
Certificate No. C 40215**

**Respondent**

**DECISION**

**The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 12, 2015.**

**IT IS SO ORDERED: October 13, 2015.**

**MEDICAL BOARD OF CALIFORNIA**



**Dev Gnanadev, M.D., Chair  
Panel B**

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CHI MANH PHAM, M.D.

Physician's and Surgeon's Certificate Number  
C40215,

Respondent.

Case No. 800-2014-006694

OAH No. 2015060106

**PROPOSED DECISION**

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in Oakland, California on September 3, 2015.

Supervising Deputy Attorney General Jane Zack Simon represented complainant, Kimberly Kirchmeyer, Executive Director of the Medical Board of California, Department of Consumer Affairs.

Respondent, Chi Manh Pham, M.D., represented himself.

The matter was submitted on September 3, 2015.

**FACTUAL FINDINGS**

1. On February 1, 1982, Physician's and Surgeon's Certificate number C40215, was issued to respondent. The license expired on May 31, 2015.
2. On October 10, 2014, complainant Kimberly Kirchmeyer, acting in her official capacity as the Executive Director of the board, issued an accusation against respondent. The accusation alleged that respondent's California certificate is subject to discipline because of actions taken by the State of Texas against respondent's license to practice medicine in that state. Respondent timely filed a Notice of Defense and the instant hearing ensued.

*Action by the State of Texas*

3. On September 7, 2012, the Texas Medical Board filed a complaint against respondent. The complaint alleged that respondent engaged in patterns of non-therapeutic prescribing of anxiolytics and muscle relaxants and that he failed to keep adequate medical records to support the prescriptions that were issued to five patients.

4. On June 11, 2014, the complaint against respondent was resolved when respondent and the Texas Medical Board entered into a Mediated Agreed Order. The Mediated Agreed Order contained the following Findings:

- a. Respondent failed to make and maintain adequate medical records with respect to five patients.
- b. Specifically, Respondent's medical records lacked documentation of the medical decision-making process, including adequate documentation of the patients' outcomes.  
(Exh. 1)

Pursuant to the Mediated Agreed Order respondent was placed on probation for "six consecutive monitoring cycles."<sup>1</sup> The terms and conditions of respondent's probation included having a practice monitor; submitting selected patient records for review; and completing at least 18 hours of in-person continuing medical education, approved for Category I credits by the American Medical Association, concerning certain specified topics.

*Respondent's Evidence*

5. Respondent's testimony is summarized as follows: he is in full compliance with the requirement of his Texas probation; he completed a two-day record keeping course, and finished all of the record keeping conditions of his probation prior to the deadlines; he currently has an Urgent Care and Family Medicine practice in Texas and wants to retire; and his California certificate has lapsed and he has no plans to renew it.

6. Respondent submitted, as evidence, an August 31, 2015, self-authored "Case Summary" in which he denied the Texas allegations against him and criticized the Texas Medical Board for having disciplined him. He summarized his position as follows:

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<sup>1</sup> A monitoring cycle is defined as follows: "A 'monitoring cycle' begins when the Compliance Division selects patient records for review, and concludes when Respondent receives the monitor's report for that group of records and has made payment for the costs of that monitoring cycle." (Exh. 1)



The TMB [Texas Medical Board] should have stopped the investigation because the accusation where are not correct based on the medical facts on MC ["MC" are the patient's initials], and failure to contact the patient to verify if all the accusation were correct. Now I have to pay the price for more than 4 years of my quality of life for the incompetence of the medical doctor's report, because I was willing to treat my chronic pain patients with narcotics (less than 5% of my practice) as the recommendation of the medical board. (Sic.)

I would like for you to take this into consideration and dismiss this case so I don't have to suffer anymore and give me more time to care for my patients. (Exh. B)

### LEGAL CONCLUSIONS

1. Business and Professions Code section 141, subdivision (a), applies generally to licenses issued by agencies that are part of the Department of Consumer Affairs, such as the board. It provides, in part:

For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action by another state . . . for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board.

The disciplinary action of the Texas Medical Board was based on acts substantially related to the practice of medicine. Therefore, cause exists under section 141 to take disciplinary action against respondent's California certificate.

2. Business and Professions Code section 2305, which applies specifically to licenses issued by the board, provides, in part:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state . . . that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

The conduct to which respondent stipulated in the Texas proceeding, as set forth in Finding 4, would have been grounds for disciplinary action in California under Business and Professions Code sections 2266 (duty to maintain adequate and accurate patient records). Consequently, cause exists under section 2305 to take disciplinary action against respondent's California certificate.

#### *Level of Discipline*

3. Cause for discipline having been established, the issue is the appropriate level of discipline to impose. The board has adopted guidelines to assist in the evaluation of that issue. (Manual of Model Disciplinary Orders and Disciplinary Guidelines, 11th Edition.) The guidelines state that, in out-of-state discipline cases, the minimum level of discipline should be the same as that for a similar violation in California, and that the maximum disciplinary action is revocation. The minimum recommended level of discipline for a violation of section 2266 is a stayed revocation and five years' probation, subject to appropriate terms and conditions.

4. Considering respondent's current insistence that he did nothing wrong and that the Texas Medical Board and the California board should quit persecuting him, as set forth in Finding 6, there is no reason to depart from the board's Disciplinary Guidelines. The minimum recommended level of discipline is warranted in this case.

#### ORDER

Certificate No.C40215 issued to respondent Chi Manh Pham, M.D. is revoked. However, the revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

##### **1. Education Course**

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

## **2. Medical Record Keeping Course**

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of this Decision, whichever is later.

## **3. Monitoring - Practice/Billing**

Within 30 calendar days of the effective date of this Decision, respondent shall submit to the board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of medicine, and whether respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

#### **4. Notification**

Within seven (7) days of the effective date of this Decision, respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine; including all physician and

locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

**5. Supervision of Physician Assistants**

During probation, respondent is prohibited from supervising physician assistants.

**6. Obey All Laws**

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

**7. Quarterly Declarations**

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

**8. General Probation Requirements**

**a. Compliance with Probation Unit**

Respondent shall comply with the board's probation unit and all terms and conditions of this Decision.

**b. Address Changes**

Respondent shall, at all times, keep the board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

c. Place of Practice

Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

d. License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

e. Travel or Residence Outside California

Respondent shall immediately inform the board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the board or its designee in writing 30 calendar days prior to the dates of departure and return.

**9. Interview with the Board or its Designee**

Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

**10. Non-practice While on Probation**

Respondent shall notify the board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the board. All time spent in an intensive training program which has been approved by the board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

#### **11. Completion of Probation**

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

#### **12. Violation of Probation**

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

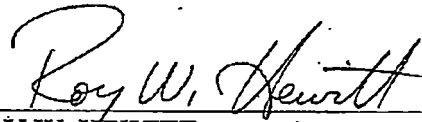
#### **13. License Surrender**

Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his or her license. The board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

**14. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the board or its designee no later than January 31 of each calendar year.

DATED: September 24, 2015

A handwritten signature in cursive script, reading "Roy W. Hewitt", written over a horizontal line.

ROY W. HEWITT  
Administrative Law Judge  
Office of Administrative Hearings